

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANGELOS KOLOBOTOS,
Plaintiff,

No. C 06-06741 TEH

v.

ORDER TO SHOW CAUSE

TRANSPORTATION SECURITY
ADMINISTRATION,
Defendant.

This case came on for a Case Management Conference (“CMC”) on Monday, July 30, 2007 at 1:30 p.m. Jonathan Lee appeared for the Defendant. Plaintiff, proceeding *pro se*, did not appear. This Court’s Courtroom Deputy confirmed that Plaintiff had been notified of the July 30, 2007 CMC at his latest known address. The Courtroom Deputy also called the telephone number provided by Plaintiff but no one answered and no answering machine or service was available to take a message. Counsel for Defendant stated that he sent Plaintiff a proposed joint CMC statement but Plaintiff did not respond.

Accordingly, the Court continued the CMC until Monday, August 13, 2007 at 1:30 p.m. and warned Plaintiff that **“if he fails to appear at the August 13, 2007 CMC, this action may be dismissed on August 13, 2007 for failure to prosecute.”** July 31, 2007 Order at 1 (emphasis in original). On August 13, 2007 Plaintiff again failed to appear. He also failed to contact counsel for Defendant or otherwise communicate with the Court. The Order continuing the CMC to August 13, 2007 was sent to Plaintiff’s last known address. In light of all of the above, the Court orally dismissed the case at the August 13, 2007 CMC.

On Tuesday, August 14, 2007, the Court was informed – prior to entering its written order of dismissal – that Plaintiff had just contacted counsel for Defendant and

1 represented that he (Plaintiff) had not received the notice of the August 13, 2007 CMC
2 until August 14, 2007. The Court has received no information directly from Plaintiff
3 explaining his failure to appear at either the July 30, 2007 or August 13, 2007 CMCs.
4 Given, however, his most recent communication with counsel for Defendant, the Court
5 will give Plaintiff an opportunity to justify these failures and show cause as to why this
6 case should not be dismissed for failure to prosecute and failure to comply with this
7 Court's orders to appear at CMCs.

8 A district court may sua sponte dismiss an action for failure to prosecute pursuant
9 or comply with Court orders pursuant to Federal Rule of Civil Procedure 41(b). The
10 following five factors are relevant in determining whether such a dismissal is
11 appropriate: (1) the public interest in the expeditious resolution of the litigation: (2) the
12 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
13 availability of less drastic sanctions; and (5) the public policy favoring the disposition of
14 actions on their merits. See Malone v. United States Postal Serv., 833 F.2d 128, 130 (9th
15 Cir. 1987); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986).

16 Accordingly, and good cause appearing, it is HEREBY ORDERED that:

17 1. Plaintiff shall appear on Monday, August 27, 2007 at 1:30 p.m. to SHOW
18 CAUSE why this case should not be dismissed for Plaintiff's failure to prosecute this
19 action and comply with the Court's two prior orders directing Plaintiff to appear at
20 CMCs on July 30, 2007 and August 13, 2007.

21 2. **Failure to comply with this Order shall be cause for dismissal of this**
22 **action.**

23
24 **IT IS SO ORDERED.**

25 Dated: August 15, 2007



26 THELTON E. HENDERSON
27 UNITED STATES DISTRICT JUDGE
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